

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

G.M. SIGN, INC., an Illinois corporation,)
individually and as the representative of a class)
of similarly-situated persons,)
v.) Civil Action No.
Plaintiff,)
STEVE STERGO d/b/a STERGO ROOFING,)
Defendant.)

NOTICE OF REMOVAL

Defendant, STEVE STERGO d/b/a STERGO ROOFING, by his undersigned attorneys, pursuant to 28 U.S.C. §§1446 and 1453(b), hereby removes the above-captioned action, pending in the Circuit Court for the Nineteenth Judicial Circuit, Lake County, Illinois, as Case No. 09 CH 1941, to the United States District Court for the Northern District of Illinois, Eastern Division. Removal is based upon 28 U.S.C. §§ 1331 and 1441.

As grounds for removal, Defendant STEVE STERGO states as follows:

1. Plaintiff G.M. SIGN, INC., on behalf of itself and purportedly for a class of those similarly situated, filed a complaint in the Circuit Court for the Nineteenth Judicial Circuit, Lake County, Illinois (the "State Court Case"). The State Court Case was given Case No. 09 CH 1941.
2. The State Court Case alleges a violation of the federal Telephone Consumer Protection Act of 1991, 47 U.S.C. §227 ("TCPA"), a common law claim for conversion, and a violation of the Illinois Consumer Fraud Act, 815 ILCS 505/2, et seq. ("ICFA"). A true copy of the complaint, together with its exhibits and all process and pleadings served in the State Court Case, is attached as Exhibit A.

3. Plaintiff's complaint in the State Court Case alleges that Defendant Steve Stergo violated §227(b)(1)(C) of the TCPA by sending an unsolicited facsimile. Plaintiff's complaint further alleges that §227(b)(3) provides Plaintiff with a private right of action for violation of the TCPA.

4. This Court has original jurisdiction over all cases arising under the laws of the United States. 28 U.S.C. §1331. In the State Court Case, Plaintiff seeks recovery under the TCPA, a federal statute. Brill v. Countrywide Home Loans, Inc., 427 F.3d 446, 449-51 (7th Cir. 2005).

5. This Court possesses removal jurisdiction under 28 U.S.C. §1441. TCPA actions may be removed because a claim that a business violated the TCPA is a claim under federal law. Brill at 449.

6. This Court has supplemental jurisdiction over Plaintiff's ICFA and common law conversion claims because they are so related to the TCPA claim that they form part of the same cause or controversy. 28 U.S.C. §1337. Supplemental jurisdiction should not be refused, as Plaintiff's claims raise no novel or complex issue of state law, nor do Plaintiff's state or common law claims predominate over its federal claim. 28 U.S.C. §1337(c).

7. Plaintiff filed the State Court Case on June 2, 2009. Defendant Steve Stergo was served with the Summons and Complaint in the State Court Case on July 10, 2009.

8. This notice is being filed with the United States District Court for the Northern District of Illinois, Eastern Division, on August 5, 2009, within 30 days of determining that the case was removable to this Court. 28 U.S.C. §1446(b).

9. This Court is situated in the district and division serving the location of the action pursuant to 28 U.S.C. §1446(a).

10. Defendant Steve Stergo has also filed his Notice of Filing Notice of Removal with the Circuit Court for the Nineteenth Judicial Circuit, Lake County, Illinois. A true copy of the Notice is attached as Exhibit B and will be served upon Plaintiff's counsel pursuant to 28 U.S.C. §1446(a) and (d).

11. This Notice of Removal is signed in compliance with Rule 11 of the Federal Rules of Civil Procedure.

12. In the event Plaintiff moves for remand, or this Court considers remand *sua sponte*, Defendant Steve Stergo respectfully requests the opportunity to submit supplemental authority, evidence and argument in support of removal, as may be appropriate.

WHEREFORE, this action should proceed in the United States District Court for the Northern District of Illinois, Eastern Division, as an action properly removed thereto.

DATED: August 5, 2009

STEVE STERGO d/b/a STERGO ROOFING,
Defendant

By: /s/ Stephanie W. Tipton
One of its Attorneys

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(312) 781-6630 (facsimile)

CERTIFICATE OF SERVICE

I, Stephanie W. Tipton, an attorney, certify that I served a copy of the **Notice of Filing** Notice of Removal and attached Notice of Removal upon:

TO: Clerk of the Circuit Court
Lake County Illinois
18 N. County Street
Waukegan, IL 60085

Brian J. Wanca
Anderson & Wanca
3701 Algonquin Road, Suite 760
Rolling Meadows, IL 60008

Phillip A. Bock
Bock & Hatch, LLC
134 N. LaSalle St., Suite 1000
Chicago, IL 60602

by electronically filing with the Clerk of the Court using the CM/ECF system that will forward it to the above participants on the 5th day of August, 2009.

s/ STEPHANIE W. TIPTON
Stephanie W. Tipton

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